

ORDINANCE NO. 23-002

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARLIN, TEXAS, CALLING FOR A SPECIAL ELECTION TO BE HELD ON MAY 6, 2023 WITH A COMBINED BALLOT PURSUANT TO SECTION 321.409 OF THE TEXAS TAX CODE TO DETERMINE WHETHER THE CITIZENS DESIRE TO REDUCE THE CURRENT ONE-HALF OF ONE PERCENT SALES AND USE TAX ALLOCATED FOR PROPERTY TAX RELIEF TO ONE-FOURTH OF ONE PERCENT AND TO ADOPT A SALES AND USE TAX OF ONE-FOURTH OF ONE PERCENT TO FUND ECONOMIC DEVELOPMENT IN ORDER TO UNDERTAKE PROJECTS FOR THE PURPOSE OF ECONOMIC DEVELOPMENT AS DESCRIBED IN SECTION 501 AND 505, TYPE B CORPORATIONS, OF THE TEXAS LOCAL GOVERNMENT CODE; ESTABLISHING PROCEDURES FOR THE CONDUCT OF THE ELECTION; ESTABLISHING LOCATIONS FOR VOTING AND PROVIDING FOR THE DESIGNATION OF COUNTY POLLING PLACES AS VOTING LOCATIONS; SETTING THE HOURS FOR EARLY VOTING AND EARLY VOTING LOCATIONS; APPOINTING AN EARLY VOTING CLERK AND PROVIDING FOR THE APPOINTMENT OF ELECTION OFFICIALS; PROVIDING A SEVERABILITY EFFECTIVE DATE CLAUSES; FINDING OF AN EMERGENCY AND PROVIDING FOR THE IMMEDIATE ADOPTION AND PASSAGE OF THIS ORDINANCE; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the Development Corporation Act of 1979, formerly Article 5190.6 of the Texas Revised Civil Statutes, was codified at title 12, Subtitle C1, Section 501, et seq., providing for the creation of economic development corporations by municipalities for the purposes specified in the applicable provisions of the Development Corporation Act;

**WHEREAS**, by resolution of the City Council for the City of Marlin (the "City") dated February 8, 2022, the City Council authorized the creation and formation of a Type B economic development corporation in the City of Marlin which is named as follows: Marlin 4-B Economic Development Corporation;

**WHEREAS**, Marlin 4-B Economic Development Corporation was created to promote economic development within the City of Marlin in order to eliminate unemployment and underemployment, and to promote and encourage employment and the public welfare of, for, and on behalf of the City of Marlin by developing, purchasing, leasing, implementing, providing, and financing Projects under the Act and as Projects is defined in Chapter 505 of the Texas Local Government Code;

**WHEREAS**, Texas Local Government Code Chapter 505, Type B Corporations, is applicable to Type B Economic Development Corporations, provides for the levy of a sales and use tax for the benefit of a Type B Economic Development Corporation if the adoption of the sales and use tax is authorized by a majority of the qualified voters of the City of Marlin;

**WHEREAS**, the City has previously adopted by election, a sales and use tax of one-half (1/2) of one percent dedicated to property tax reduction;

**WHEREAS**, the City Council for the City (the "City Council") has determined that it is the best interest of the citizens of the City of Marlin to re-allocate the one-half (1/2) of one percent sales tax dedicated to property tax reduction by lowering that tax dedicated to property tax relief to one-fourth (1/4) of one percent and adopting a new sales and use tax of one-fourth (1/4) of one percent to support economic development projects of a Type B Corporation as described in the Development Corporation Act;

**WHEREAS**, due to the limitations on sales and use tax under the law, the City cannot legally collect sales and use taxes for the benefit of Marlin 4-B Economic Development Corporation and continue collection of the current sales and use taxes of one-half (1/2) of one percent for property tax relief;

**WHEREAS**, Section 321.409 of the Texas Tax Code requires the City Council of the City of Marlin to call a special election with a combined ballot for the purpose of determining if a majority of the citizens of the City of Marlin desire to reduce that tax dedicated to property tax relief to one-fourth (1/4) of one percent and adopting a sales and use tax of one-fourth (1/4) of one percent for the purpose of economic development as described in the Development Corporation Act; and,

**WHEREAS**, the City entered into Election Agreement (the "Election Agreement") with Falls County, Texas (the "County"), by and through the county election officer (the "Administrator"), and possibly other political subdivisions, in accordance with the laws of the State of Texas (the "State") and applicable federal law;

**WHEREAS**, under State law, the City Council must take action to adopt an ordinance ordering the special election as ordered by this Ordinance no later than Friday, February 17, 2023;

**WHEREAS**, under Section 2.11 of the City Charter for the City of Marlin, an ordinance shall not be passed at the meeting of the City Council at which it is first introduced, but it shall then be read, and the City Council shall determine whether it shall be rejected or further considered at the next meeting of the City Council;

**WHEREAS**, if the City Council, including the Mayor, by a vote of not less than two-thirds of the members present at the meeting at which an ordinance is first introduced, determines that an emergency exists requiring immediate action, then such ordinance may then be voted upon and rejected or passed at that meeting; and

**WHEREAS**, the City Council expressly finds that an emergency exists requiring this Ordinance to be passed at the City Council meeting occurring on February 14, 2023, which is the first meeting at which this Ordinance was introduced, because the deadline for the City Council to order the special election ordered by this Ordinance is Friday, February 17, 2023,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLIN, TEXAS:**

**Section 1. Findings of Fact.** The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes.

**Section 2. Order of Special Election.** The City Council orders a special election with a combined ballot to be held on Saturday, May 6, 2023, such date being a uniform election date as set forth in the Texas Election Code, for the purpose of submitting to the qualified voters of the City the proposition on whether a majority of the citizens of Marlin desire to lower the current one-half (1/2) of one percent sales and use tax dedicated to property tax relief to a one-fourth (1/4) of one percent sales and use tax dedicated to property tax relief and to adopt a one-fourth (1/4) of one percent sales and use tax for the purpose of economic development as described in the Development Corporation Act. This election shall be held and conducted in accordance with the provisions of the Texas Election Code.

**Section 3. Submission of Proposition.** A proposition of whether desire to reduce the current one-half of one percent sales and use tax dedicated to property tax relief to one-fourth (1/4) of one percent and to adopt a one-fourth (1/4) of one percent sales and use tax for the purpose of economic development as described in the Development Corporation Act shall be submitted to the City's qualified voters for their approval or disapproval at an election to be held concurrently with the regular City election of City Council members on Saturday, May 6, 2023.

**Section 4. Levy of Sales and Use Taxes if Approved by Voters.** If a majority of the qualified voters shall vote in favor of the proposition and in favor of reducing the current one-half (1/2) of one percent sales and use tax dedicated to property tax relief to one-fourth (1/4) of one percent and to adopt a one-fourth (1/4) of one percent sales and use tax for the purpose of economic development as described in the Development Corporation Act, the City Council shall adopt ordinances levying the sales and use tax as lowered and adopted, if approved by the voters, in accordance with Texas Tax Code Chapter 321, the Development Corporation Act, and other applicable Texas state law, which shall, at the time fixed therein, become effective as law.

**Section 5. Election Held in Accordance with Election Code.** The special election which election shall be held in compliance with the provisions of Chapter 321 of the Texas Tax Code, and, to the extent not in conflict therewith, the Texas Election Code.

**Section 6. Proposition.** The official ballot shall be prepared in accordance with the Texas Election Code so as to permit the electors to vote "For" or "Against" the proposition, with the ballots to contain such provision, markings, and language as required by law, and with such proposition as set forth in the attached draft ballot, or to be expressed substantially as follows:

PROPOSITION:

"The lowering of the current one-half (1/2) of one percent sales and use tax allocated for property tax relief to one-fourth (1/4) of one percent and to thereby adopt a sales and use tax of one-fourth (1/4) of one percent to be used to reduce the property tax rate and the adoption of a Local Government Code Section 505.251 sales and use tax of one-fourth (1/4) of one percent to undertake projects authorized by and described in Section 505 of the Development Corporation Act"

FOR \_\_\_\_\_

AGAINST \_\_\_\_\_

**Section 7. Official Ballots.** The ballots used for the general election shall comply with the Texas Election Code and be in the form provided by the City for use on the respective voting

devices used the City.

**Section 8. Printed Materials.** The official ballots, together with such other election materials as are required by the Texas Election Code, as amended, shall be printed in both the English and Spanish languages and shall contain such provisions, markings and language as required by law.

**Section 9. Notice of Election.** Notice of the election shall be given in the manner as provided in the Texas Election Code and the City Charter. The notice of election shall be posted on the bulletin board used for posting notice of meetings of the governing body at City Hall and at other locations required by state law not later than the twenty-first (21st) day before the election, and by publishing said notice of election in a newspaper of general circulation, not earlier than thirty (30) days nor later than ten (10) days prior to said election. The City Secretary is authorized and shall give all notices required for the election.

**Section 10. Conduct of Election.** The City Secretary and the City Secretary's designees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election for the City. The election shall be held and conducted in compliance with the City Charter and state law.

**Section 11. Joint Election.** The City may agree to conduct a joint election with other political subdivisions within Falls County, provided that such political subdivisions hold an election on May 6, 2023, in all or part of the same territory as the City (the "Political Subdivisions"). The joint election will be conducted in accordance with state law, this ordinance, and any respective election services contracts.

**Section 12. Election Precincts and Election Day Polling Places.** The City has one (1) election precinct and said election shall be at the following place in said City:

Election Precinct No. 1, Marlin City Hall  
101 Fortune Street, Marlin, Texas 76661

**Section 13. Designation of Polling Place(s).** The polls at the designated polling place(s) shall on said Election Day to be opened from 7:00 A.M. to 7:00 P.M. in the Council Chamber of the Marlin City Hall located at 101 Fortune Street, Marlin, Texas 76661. The City Secretary shall tabulate and provide the election returns for votes cast for the following officials for the City: Mayor, Councilmember Place 1 for Precinct Number 1; Councilmember Place 3, for Precinct Number 3; and Councilmember Place 5, for Precinct Number 5.

**Section 14. Early Voting.** (a) Early voting by personal appearance shall commence on Monday, April 24, 2023, and continue through Tuesday, May 2, 2023, and early voting polls shall remain open for the time specified by the Texas Election Code and the City Secretary.

(b) The period to apply for a ballot by mail is January 1, 2023 through April 25, 2023. An application for ballot by mail (ABBM) must be received by the Early Voting Clerk no later than the close of business on April 25, 2023.



(c) The period to apply for a federal postcard application (FPCA) is January 1, 2023, through April 25, 2023. An FPCA must be received by the Early Voting Clerk no later than the close of business on April 25, 2023.

(d) Early Voting Conducted by the City:

1. Early voting, both by personal appearance and by mail will be conducted by the City Secretary in accordance with the Texas Election Code for the qualified voters of the City residing in the City. The City Secretary is hereby designated and appointed as an Early Voting Clerk for the general election for qualified voters of the City.
2. Applications for ballot by mail for qualified voters of the City residing in the City shall be mailed to:

Maryann Waddle  
City Secretary

Mailing and Physical Address:  
101 Fortune Street  
Marlin, Texas 76661  
Telephone Number: (254) 883-1450  
Email Address: citysecretary@marlintx.net  
Website: <https://marlintx.net/contact/>

3. The main early voting location for qualified voters of the City is: the City Council Chambers in the Marlin City Hall located at 101 Fortune Street, Marlin, Texas 76661.
4. Early voting for qualified voters of the City shall be held at the dates, times, and location authorized by the City Secretary. Any early voting polling place may be added or changed by the City Secretary upon compliance with applicable law. Early voting by personal appearance shall only be conducted on one or more Saturdays or Sundays during the early voting period upon receipt of a written request submitted by at least 15 registered voters of the territory covered by the election as required by state law.

**Section 15. Election Judges and Clerks.** The presiding judges, alternate presiding judges and clerks for the election shall be selected and appointed by the City Secretary, respectively, in compliance with the requirements of state law, and are hereby designated and appointed election officers for the holding of said election and such appointments are approved. The presiding judges, alternate presiding judges and clerks shall perform the functions and duties of their respective positions that are provided by state law.

**Section 16. City Secretary Assistance.** The City Secretary is hereby authorized and instructed to contract with Falls County in the acquisition and furnishing of all election supplies and materials necessary to conduct the election. The City Secretary is further authorized to assist with the giving of notices required for the election, and to take such other and further action as is

required to conduct the election in compliance with the Texas Election Code; provided that, pursuant to the any applicable election services contracts shall have the duty and be responsible for organizing and conducting the election in compliance with the Texas Election Code; and for providing all services specified to be provided in any applicable election services contract.

**Section 17. Necessary Actions.** The Mayor, City Manager, and the City Secretary of the City, in consultation with the City's Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Code, the Texas Tax Code, and the Federal Voting Rights Act in carrying out and conducting the Election, whether or not expressly authorized herein. Such authorized necessary actions shall include, but are not limited to, making changes or additions to polling places and making changes and revising the ballot language and proposition language set forth in this Ordinance provided that such revisions do not expressly conflict with the terms and ordering provisions of this Ordinance. Such authorized necessary actions shall further include making changes to procedures to the extent required or desirable or as may become necessary due to circumstances arising after the date of this Ordinance. The City Manager or the City Secretary is further authorized to give notice of the election as provided in the Texas Election Code.

**Section 18. General.** The general election shall be held and conducted by the City in compliance with the Texas Election Code and, to the extent not inconsistent therewith, the City Charter, and only resident qualified voters of the City shall be eligible to vote at the election. The Election Officers are hereby authorized and instructed to provide and furnish all necessary election supplies, materials, and equipment to conduct said election. Returns of the election shall be made known as soon as possible after the closing of the polls; and the election returns shall be canvassed by the City Council not earlier than May 9, 2023, nor later than May 17, 2023.

**Section 19. Authorization to Execute.** The Mayor is authorized to execute, and the City Secretary is authorized to attest this ordinance on behalf of the City Council; and the Mayor and the City Manager is authorized to do all other things legal and necessary in connection with the holding and consummation of the Election.

**Section 20. Notice to Texas Comptroller.** Upon adoption of this Ordinance, the City Secretary is directed to immediately give notice of the election to the Texas Comptroller of Public Accounts by delivering a fully executed copy of this Ordinance to the Comptroller.

**Section 21. Severability.** If any provision, section of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Section 22. Emergency Requiring Immediate Adoption.** The City Council has found that an emergency exists requiring immediate action to adopt this Ordinance and thereby authorizing the City Council to adopt this Ordinance upon first consideration as expressly authorized by Sec. 2.11 of the City Charter for the city of Marlin.

**Section 23. Effective Date; Election Code.** This Ordinance shall take effect immediately upon first being introduced and from and after its passage as authorized by State law and the City Charter for the City of Marlin; provided that if any term or provision of this Ordinance

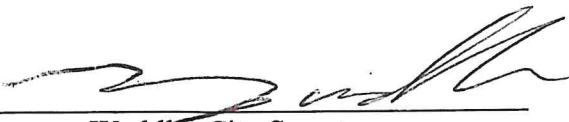
with, or is inconsistent with, the Texas Elections Code, the Texas Election Code shall govern and control. The City Secretary shall comply with the Texas Elections Code.


**Section 24. Open Meetings.** It is officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required *Chapt. 551, Tex. Gov't. Code*.

**PASSED, ADOPTED AND APPROVED** on this the 14 day of February, 2023.

**ATTEST:**

**CITY OF MARLIN, TEXAS**

  
\_\_\_\_\_  
Maryann Waddle, City Secretary

  
\_\_\_\_\_  
Carolyn Lofton, Mayor



## **DRAFT OFFICIAL BALLOT**

**AN ELECTION FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF MARLIN, TEXAS, THE PROPOSITION ON THE LOWERING OF THE CURRENT ONE-HALF (1/2) OF ONE PERCENT SALES AND USE TAX ALLOCATED FOR PROPERTY TAX RELIEF TO ONE-FOURTH (1/4) OF ONE PERCENT AND THE ADOPTION OF A LOCAL GOVERNMENT CODE SECTION 505.251 SALES AND USE TAX OF ONE-FOURTH (1/4) OF ONE PERCENT TO UNDERTAKE PROJECTS AUTHORIZED BY AND DESCRIBED IN SECTION 505 OF THE DEVELOPMENT CORPORATION ACT.**

“The lowering of the current one-half (1/2) of one percent sales and use tax allocated for property tax relief to one-fourth (1/4) of one percent and to thereby adopt a sales and use tax of one-fourth (1/4) of one percent to be used to reduce the property tax rate and the adoption of a Local Government Code Section 505.251 sales and use tax of one-fourth (1/4) of one percent to undertake projects authorized by and described in Section 505 of the Development Corporation Act”

(A vote For the Proposition is a vote to reduce the current one-half (1/2) of one percent sales and use tax allocated for property tax relief to one-fourth (1/4) of one percent and to adopt a Local Government Code Section 505.251 sales and use tax of one-half (1/2) of one percent to undertake economic development projects authorized by and described in Section 505 of the Development Corporation Act)

(A vote Against the Proposition is a vote against reducing the current one-half (1/2) of one percent sales and use tax allocated for property tax relief to one-fourth (1/4) of one percent and a vote against adopting a Local Government Code Section 505.251 sales and use tax of one-fourth (1/4) of one percent to undertake economic development projects authorized by and described in Section 505 of the Development Corporation Act).

### **PROPOSITION**

“The lowering of the current one-half (1/2) of one percent sales and use tax allocated for property tax relief to one-fourth (1/4) of one percent and to thereby adopt a sales and use tax of one-fourth (1/4) of one percent to be used to reduce the property tax rate and the adoption of a Local Government Code Section 505.251 sales and use tax of one-fourth (1/4) of one percent to undertake projects authorized by and described in Section 505 of the Development Corporation Act”

FOR \_\_\_\_\_

AGAINST \_\_\_\_\_